

IRWIN I. KIMMELMAN
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff,
State of New Jersey, Department
of Environmental Protection

Richard J. Hughes Justice Complex
CN-112
Trenton, New Jersey 08625

BY: DAVID W. REGER
Deputy Attorney General
(609) 984-5612

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
ESSEX COUNTY
DOCKET NO. C-1852-83E

STATE OF NEW JERSEY, DEPARTMENT)
OF ENVIRONMENTAL PROTECTION,)

Plaintiffs,)

v.)

SCIENTIFIC CHEMICAL PROCESSING,)
INC., a Corporation, et al.,)

Defendants...)

Civil Action

NOTICE OF MOTION

TO: CLERK OF THE COURT

Harriet Sims Harvey, Esquire
71 Spring Lane
Englewood, New Jersey 07631

✓ Edward J. Egan, Esquire
1073 E. Second Street
Box 190
Scotch Plains, New Jersey 07076

Dominick Presto, Esquire
Presto & Barbire
18 Glen Road
Rutherford, New Jersey 07070

Mr. Leif R. Sigmond
215 Comanche Drive
Ocean Port, New Jersey 07757

Mr. Herbert G. Case
71 Mountaintop Terrace
Dunnellen, New Jersey

345797



PLEASE TAKE NOTICE, that on Friday, February 10, 1984, at 9:00 o'clock in the forenoon or as soon thereafter as counsel may be heard, the undersigned, attorney for plaintiff, State of New Jersey, Department of Environmental Protection, will move before the Honorable Reginald Stanton, at the Morris County Court House, Morristown, New Jersey, for an order voiding the conveyance of Lots 36 and 47B, of Block 157, in the Borough of Lodi, Bergen County, New Jersey, by Michael Grella, Jr. and Dominick Presto, Partners, trading as G.P.S. Associates, to John MacKay.

TAKE FURTHER NOTICE that the State will rely on the attached affidavit of David W. Reger, Esquire.

The undersigned hereby requests that oral argument be scheduled with respect to this motion.

IRWIN I. KIMMELMAN
Attorney General of New Jersey

By David W. Reger
David W. Reger
Deputy Attorney General

January 17, 1984.

CERTIFICATION

Pursuant to R. 1:6-4, I certify that the original of the within Motion was filed with the Clerk of the Superior Court in Trenton, and a copy filed with the Clerk of Essex County.

Pursuant to R. 1:5-2, I certify that copies of the within Motion were served upon my adversaries, listed in the Notice of Motion, by regular mail.

David W. Reger

David W. Reger
Deputy Attorney General

Dated: January 17, 1984

AFFIDAVIT OF DAVID W. REGER

STATE OF NEW JERSEY)
 :SS
COUNTY OF MERCER)

DAVID W. REGER, of full age, being duly sworn according to law, upon his oath, deposes and says:

1. I am the Deputy Attorney General assigned to handle the above matter on behalf of the State of New Jersey, Department of Environmental Protection.

2. Pursuant to this Court's revised Order dated June 16, 1983, defendants in this matter were directed not to convey any real property in which they had an interest without leave of the Court. (Copy attached as Exhibit "A").

3. In early December, 1983, I was forwarded a Contract for Sale of Real Estate, dated September 6, 1983. (Copy attached as Exhibit "B"). No cover letter was forwarded with the Contract.

4. Pursuant to the terms of the Contract, Michael Grella, Jr. and Dominick Presto, Partners t/a G.P.S. Associates, agreed to convey certain property known as Lots 36 and 37B, Block 157, in the Borough of Lodi, Bergen County, New Jersey, for a purchase price of \$70,000.

5. Pursuant to the terms of the Contract, closing of title was to take place on September 15, 1983.

6. Mr. Presto made no effort to advise the Court or the Department of Environmental Protection that he intended to convey real property, even though he was required to do so under this Court's prior Order.

7. I respectfully request that the Court grant the Motion to void the conveyance of Lots 36 and 37B, Block 157, in the Borough of

Lodi, Bergen County, New Jersey, by Michael Grella, Jr. and Dominick Presto, Partners t/a C.P.S. Associates, since it was clearly violative of the above Court Order.

David W. Reger

David W. Reger

Sworn and subscribed to before
me this 17th day of January,
1984.

Jane A. Yarnall

JANE A. YARNALL

NOTARY PUBLIC - NEW JERSEY

My Commission Expires August 25, 1988

FILED

RECEIVED

JUN 20 1983

JUN 16 1983

DAVID W. REGER, D.A.G.

REGINALD STANTON
J.S.C.

Prepared by the Court.

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION: ESSEX COUNTY
DOCKET NO. C 1852-83E

STATE OF NEW JERSEY, DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Plaintiffs,

vs.

SCIENTIFIC CHEMICAL PROCESSING, INC.,
a corporation, et al.,

Defendants.

Civil Action

REVISÉ ORDER APPOINTING
COMMISSIONER OF DEPARTMENT OF
ENVIRONMENTAL PROTECTION AS
CUSTODIAN OF SITES AND
GRANTING OTHER RELIEF

x

This matter having been brought before the Court on Order to Show Cause by Irwin I. Kimmelman, Attorney General of New Jersey, Attorney for State of New Jersey, Department of Environmental Protection, Deputy Attorney General David W. Reger appearing and Harriet Sims Harvey, Esq. appearing on behalf of defendant Mack Barnes; and Edward J. Egan, Esq. appearing on behalf of defendants Inmar Associates, Inc. and Marvin Mahan; and Paul S. Barbire, Esq. appearing on behalf of defendants, Sigmond and Presto, a partnership and Dominick Presto individually; and Herbert G. Case and Leif R. Sigmond appearing pro se; and

It further appearing that the return date for the

Exhibit "A"

Order to Show Cause filed with the Court on May 5, 1983 was set down for May 27, 1983; and

It further appearing that defendants, Scientific Chemical Processing, Inc. (SCP), Energall, Inc. (Energall) and Presto, Inc. (Presto) operated special waste facilities wherein chemical waste was reprocessed, treated, reclaimed and/or disposed of at 411 Wilson Avenue, City of Newark, Essex County, New Jersey (Newark site) and 216 Paterson Plank Road, Carlstadt, Bergen County, New Jersey (Carlstadt site); and

It further appearing that an administrative hearing captioned "In the Matter of Court Ordered Administrative Hearing on Scientific Chemical Processing, Energall, Inc. and Presto, Inc." was conducted in June and July 1979 regarding the operations of said corporations and the conditions which existed at the Newark and Carlstadt sites; and

It further appearing that on October 11, 1979 Administrative Law Judge Lewis P. Goldshore issued his report and recommended decision which was thereafter approved by the Commissioner of the Department of Environmental Protection (DEP) and affirmed by the Appellate Division; and

It further appearing based upon the aforesaid report and affidavits attached to the Complaint that perilous and dangerous conditions presently exist at both the Newark and Carlstadt sites which threaten the public health, safety and welfare; and

It further appearing that neither the owners, operators and/or directors of SCP, Energell and Presto, nor the land-owners of the Newark and Carlstadt sites have taken appropriate action to cleanup said sites and abate the danger which they pose; and

It further appearing that the Newark and Carlstadt sites must be cleaned up forthwith,

And the court having considered the Verified Complaint and affidavits attached thereto, plaintiff's Brief in Support of the Order to Show Cause, the papers submitted in opposition thereto, the arguments of counsel, and for good cause shown;

IT IS on this 16 day of June, 1983, ORDERED that:

1. The Administrative Law Judge's report and recommended decision "In the Matter of Court Ordered Administrative Hearing on Scientific Chemical Processing, Energall, Inc. and Presto, Inc." dated October 11, 1979, is and shall be binding on the parties in the within action.

2. With the exception of defendant Mahan, all defendants, including SCP, Energall, Presto, Sigmond, Case, Barnes and Dominick Presto, together with landowners Sigmond and Presto, partnership and its individual partners (Newark site) and Inmar Associates, Inc. (Carlstadt site) are responsible for cleanup of the sites which they were associated or connected with.

3. On July 7, 1983 the Court shall decide the issue of whether defendant Marvin Mahan is individually liable for cleanup of the Carlstadt site. The State shall submit a brief

in support of its position by June 22, 1983 and Mahan shall submit his reply brief by July 1, 1983.

4. The Commissioner of the Department of Environmental Protection is appointed custodian of the Newark and Carlstadt sites with responsibility for physical security of the sites, authority to exclude all persons from entry thereon and authority to take other measures which he deems necessary in connection with this responsibility. This appointment is effective as of May 27, 1983.

5. Each defendant, with the exception of Mahan, shall submit to the court and DEP by July 1, 1983 a comprehensive plan for cleanup of the site/sites which he was connected or associated with. All financial resources to be dedicated thereto shall clearly be set forth. More than one defendant may adopt a joint cleanup plan. The only basis to be excused from the provisions of this paragraph to the Order shall be by submission of a detailed financial plan showing that said defendant is incapable of contributing to or paying for cleanup.

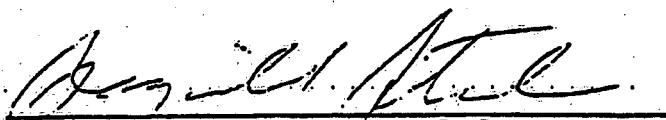
6. On Thursday, July 7, 1983, a hearing shall be held regarding the adequacy of the proposals submitted by the afore-said defendants.

7. All defendants with the exception of Mahan shall have a lien impressed upon their real property within the State of New Jersey until further order of this Court. Further, said defendants shall not transfer or encumber said property without leave of the Court. In the event a need arises to transfer

assets, application may be made to the Court, on two day's notice, for leave to do so.

8. No additional parties, including generators, shall be added to this litigation. It is noted that the defendants have indicated that they would like to join additional parties. The Court is prohibiting such joinder because the Court believes that the need to have a rapid adjudication of matters relating to the cleanup of the premises is an imperative public interest which would be frustrated by joining additional parties. The entire controversy doctrine shall not bar defendants from seeking relief against other parties in future litigation.

9. This revised order replaces the order previously entered herein on June 3, 1983.


REGINALD STANTON, J.S.C.

The Court is mailing copies of this Order to all counsel of record. Mr. Reger shall make certain that copies of this Order are promptly mailed by his office to the defendants appearing pro se.

R. S., J.S.C.